UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY CAMDEN VICINAGE

IN RE: VALSARTAN, LOSARTAN, AND IRBESARTAN PRODUCTS LIABILITY LITIGATION

MDL No. 2875

Honorable Robert B. Kugler, District Court Judge

Oral Argument Requested

This Document Relates to All Actions

DEFENDANT'S MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFFS' *DAUBERT* MOTION AND INCORPORATED MEMORANDUM OF LAW TO PRECLUDE OPINIONS OF <u>DEFENSE EXPERT ROGER WILLIAMS, M.D.</u>

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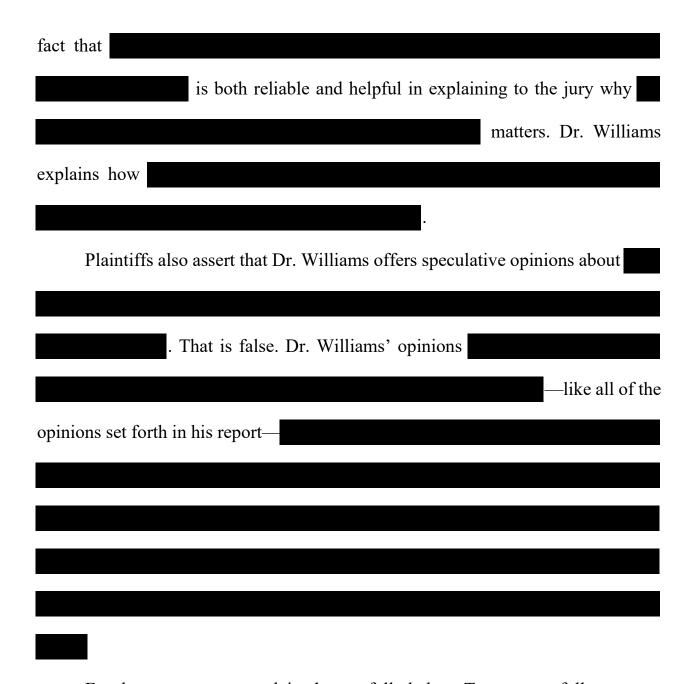
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Other Authorities

Defendants Teva Pharmaceuticals USA, Inc., Teva Pharmaceutical Industries Ltd., Actavis Pharma, Inc., and Actavis LLC (collectively, "Teva") submit this memorandum of law in opposition to Plaintiffs' *Daubert* Motion to Preclude Opinions of Defense Expert Roger Williams, M.D. [ECF No. 2295] (the "Motion") and state as follows:

INTRODUCTION

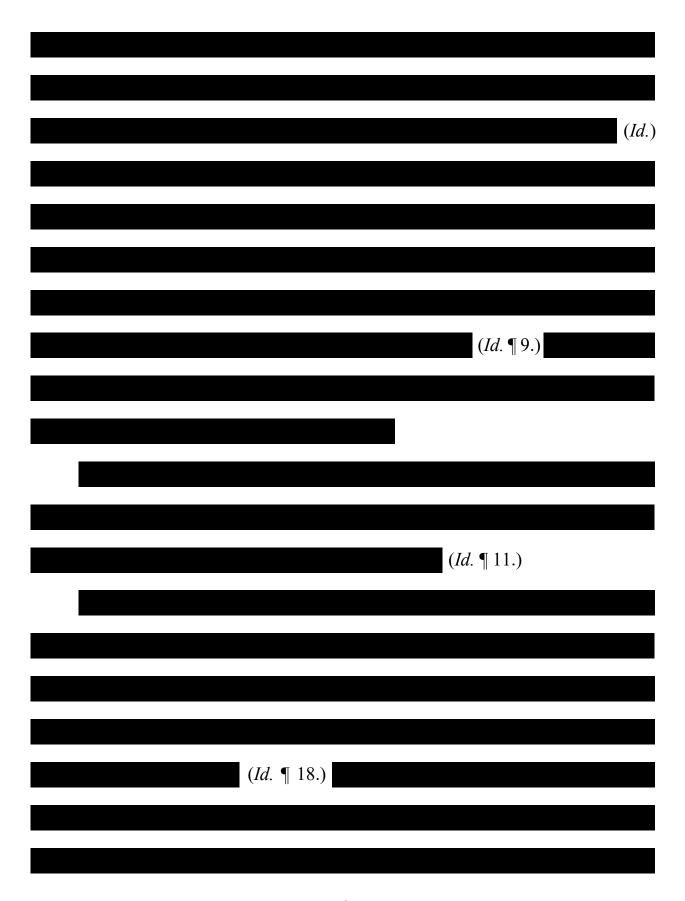
Plaintiffs seek to preclude two narrow, proper, and admissible opinions of
Teva's expert, Roger Williams, M.D., pertaining to
Plaintiffs attack Dr. Williams by falsely attributing to him various opinions he did
not offer, while disregarding or mischaracterizing the opinions he has offered and
ignoring the reliable bases for those opinions. Plaintiffs' motion should be denied.
Dr. Williams has properly proffered a reliable and helpful opinion about
, and has done so within his expertise and without
offering legal opinions or conclusions. Plaintiffs attack Dr. Williams'
opinion because
, and assert in conclusory fashion that
. But Dr. Williams' opinions are not
excludable merely because Plaintiffs or their experts disagree. Plaintiffs ignore the

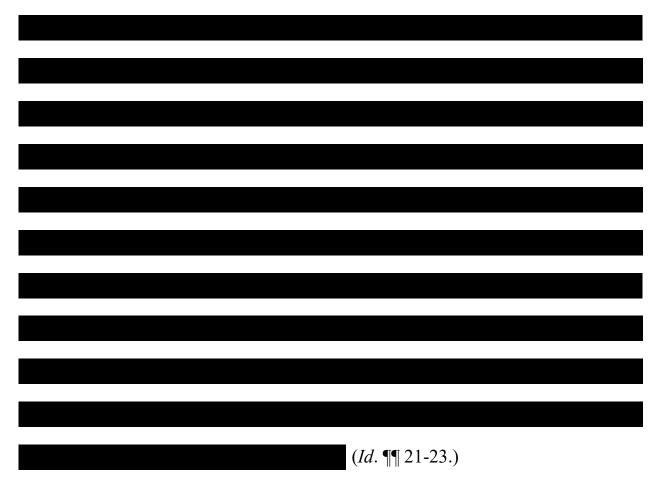


For these reasons, as explained more fully below, Teva respectfully requests that the Court deny Plaintiffs' Motion and Incorporated Memorandum of Law to Preclude Opinions of Defense Expert Roger Williams, M.D.

BACKGROUND

Dr. Williams is
(Expert Report of Roger Lea Williams, M.D.,
dated December 19, 2022, revised January 28, 2023, (Mot. Exhibit 1) ("Williams
Corrected Rep.") (¶ 10)). Dr. Williams'
$(Id. \P \P 7-9.)$
Dr. Williams'
D1. Williams
(Id.
$\P\P ext{ 4-12.}$
(Id.)
(Id.)
(Id.)





LEGAL STANDARD

Pursuant to Federal Rule of Evidence 702, a qualified expert witness may offer opinions in a case if: (i) the expert's "scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue"; (ii) "the testimony is based on sufficient facts or data"; (iii) "the testimony is the product of reliable principles and methods"; and (iv) "the expert has reliably applied the principles and methods to the facts of the case." Fed. R. Evid. 702; see also Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579, 582 (1993) ("The inquiry is a flexible one, and the focus must be solely on principles and methodology,

not on the conclusions that such principles and methodology generate.").

To that end, courts within this circuit examine an expert's qualification, as well as the reliability and "fit" of the expert's opinion, in disposing of Rule 702 motions. *See Calhoun v. Yamaha Motor Corp., U.S.A.*, 350 F.3d 316, 321 (3d Cir. 2003). To be admissible, "the process or technique [the expert] used in formulating the opinion [must be] reliable," *Pineda v. Ford Motor Co.*, 520 F.3d 237, 244 (3d Cir. 2008) (citations omitted), but "the grounds for [an] expert's opinion . . . do not have to be perfect," *De La Cruz v. V.I. Water & Power Auth.*, 597 F. App'x 83, 91 (3d Cir. 2014) (citation omitted). Additionally, expert testimony must "fit" the facts of the case, or "be relevant for the purposes of the case and . . . assist the trier of fact." *Schneider ex rel. Est. of Schneider v. Fried*, 320 F.3d 396, 404-05 (3d Cir. 2003); *see also Daubert*, 509 U.S. at 591-92 (explaining that this "helpfulness' standard requires a valid scientific connection to the pertinent injury").

Although all experts must satisfy the *Daubert* standard, defense experts "have a less demanding task," *Winn-Dixie Stores, Inc. v. E. Mushroom Mktg. Coop.*, Case No. 15-6480, 2021 WL 2352016, at *14 (E.D. Pa. June 9, 2021) (quoting *In re Zyprexa Prods. Liab. Litig.*, 489 F. Supp. 2d 230, 285 (E.D.N.Y. 2007)), because the burden of proof with respect to a lawsuit's substantive merits is not shouldered by the defense, *Holbrook v. Lykes Bros. S.S. Co.*, 80 F.3d 777, 786 (3d Cir. 1996).

ARGUMENT

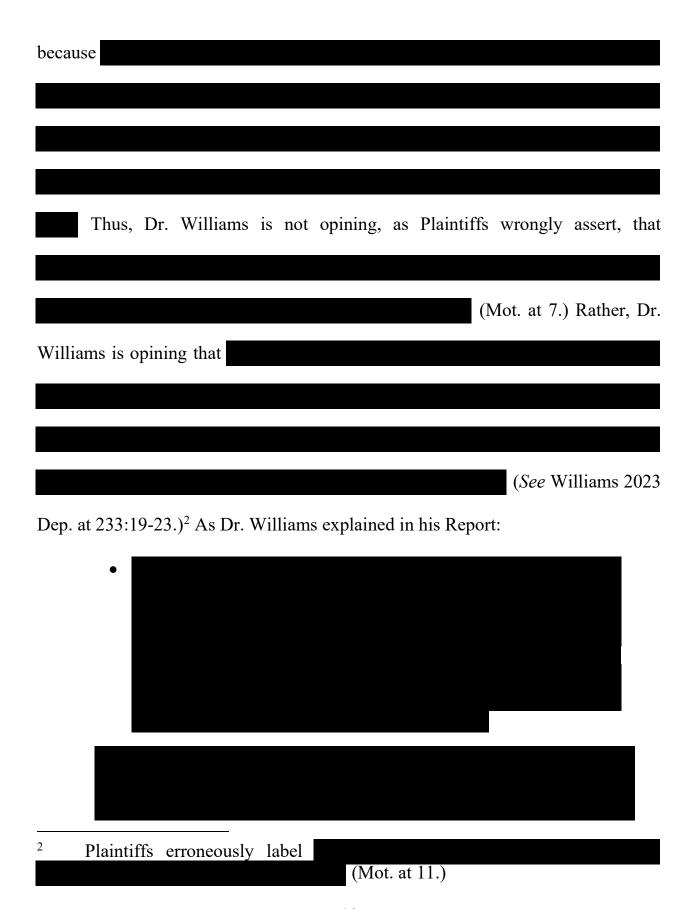
I. DR. WILLIAMS' SHOULD NOT BE PRECLUDED BECAUSE HIS OPINION IS RELIABLE, HELPFUL, AND PROPERLY ADMISSIBLE. Plaintiffs attack Dr. Williams by attributing to him an he did not give, while wholly failing to address the reliable, helpful, and properly admissible opinion he actually offers. Dr. Williams (Williams Corrected Rep. ¶ 144.) Because this fact is inconvenient to Plaintiffs' theory of liability, they seek to exclude any discussion of it. Their starting point is to mischaracterize Dr. Williams' opinion, falsely asserting that Plaintiffs erroneously contend that (Mot. at 1.) It did not. (Williams Corrected Rep. ¶ 110.) (See

Transcript of Roger Williams, M.D., dated January 31 2023, (Mot. Exhibit 2) ("Williams 2023 Dep.") 281:2-4.)

(*Id.* at 119:14-19.)

(Motion at 7.) Plaintiffs cite neither Dr. Williams' deposition
testimony nor his expert report to support this attribution, nor can they, as he never
said it.
Dr. Williams' opinion, rather, is that
(Williams Corrected Rep. ¶ 145.) The fact that
Dr. Williams is not making a subjective value judgment about
(See e.g., Williams Corrected Rep. ¶ 144
("

")). These facts which Plaintiffs ignore are at the heart of	Dr.
Williams' expert opinion. (See id. ¶ 145 ("	
")).	
Plaintiffs nevertheless attack Dr. Williams' opinion in false and hyperbo	olic
terms, attributing to Dr. Williams a	
and a contention that	
(Mot. at 7, 11.) Plaintiffs mischaracterize Dr. William	ms'
opinion as:	
(Id. at 12.) None of these strawman "opinions" reflect act	tual
opinions offered by Dr. Williams. They are just cover for Plaintiffs to try to exclu	ude
helpful and reliable expert testimony contrary to their allegations.	
Dr. Williams's relevant opinion is that	
(Williams Corrected Rep. ¶ 145.) That is import	ant
(williams corrected Rep. 143.) That is import	allt





(Williams Corrected Rep. ¶ 142, 144-145.)

Dr. Williams' actual opinion is reliable and helpful. See, e.g., UGI Sunbury LLC v. A Permanent Easement for 1.7575 Acres, 949 F.3d 825, 835 (3d Cir. 2020) (providing that expert testimony "fits" the dispute where it "will help the trier of fact ... understand the evidence or ... determine a fact in issue" (citations omitted)). Dr. Williams is not making

(See Williams 2023 Dep. at 234:19-24

Dr. Williams'
. Simply put, Dr. Williams'
opinion might not align with Plaintiffs' argument but it does align with the facts of
this case, and therefore Dr. Williams' opinion should be admitted.
II. DR. WILLIAMS' OPINIONS
ARE SUFFICIENTLY BASED ON DR. WILLIAMS' MANY YEARS OF PROFESSIONAL EXPERIENCE AND ARE PROPERLY ADMISSIBLE.
Dr. Williams' opinions about
are sufficiently based on his professional
experience .
Plaintiffs falsely assert that Dr. Williams'
(Mot. at 19.) Plaintiffs cherry-pick portions of Dr. Williams' report and
deposition testimony as examples of

(Id. at 14-15.) Plaintiffs also wrongly insist that Dr. Williams (*Id.* at 19.) Plaintiffs are wrong. Dr. Williams is not offering opinions as to unlike the expert in Plaintiffs' principal authority, SEC v. Ambassador Advisors, LLC, 576 F. Supp. 3d 250 (E.D. Pa. 2021). (See id. at 16.) There, a professor proffered opinions about the SEC's feelings about certain fees and the SEC's motivation for bringing suit. See Ambassador Advisors, LLC, 576 F. Supp. 3d at 261. Dr. Williams has offered . Plaintiffs also leave out the salient fact that the expert in *Ambassador* Advisors—whom the court nevertheless found to be a qualified expert—had never worked in the investment advising industry; had never had to draft or approve SEC disclosures on behalf of investment advising companies; and had limited experience writing about investment advisers and the Investment Adviser Act. 576 F. Supp. 3d at 259. Dr. Williams' professional experience could not be more different. As discussed above, Dr. Williams (Williams Corrected Rep. ¶ 10.) He relies on vast professional experience personally making $(Id. \P\P 4-12.)$ Specifically, Dr. Williams spent

(Id. ¶ 7.) Dr. Williams also worked as
$(Id. \P 9.)$
Far from the ungrounded speculation as to feelings or motives in Ambassador
Advisors, moreover, Dr. Williams' opinions
(Williams 2023 Dep. at 34:20-24.) An expert
may express his methodology in a variety of ways, including, "discussing [the
expert's] experience and knowledge in detailexplaining the methods [the expert]
has used in the pastindicating the success or failure that [the expert] has enjoyed
in employing these methodsand testifying about how [the expert] used the same
methods in the investigation at issue." Pappas v. Sony Elecs., Inc., 136 F. Supp. 2d
413, 425 n.16 (W.D. Pa. 2000); see also Cuffari v. S-B Power Tool Co., 80 F. App'x
749, 751 (3d Cir. 2003) ("In short, trial courts should determine whether the expert's
conclusion is based on valid reasoning and reliable methodology."). Dr. Williams'
opinions about

Plaintiffs' argument that Dr. Williams' opinions are not rooted in sufficient
fact and unreliable is meritless. Dr. Williams is not speculating about
He is drawing on his extensive experience to explain
(Williams 2023
Dep. at 34:3-8), and to illustrate how
(id. at 34:20-22). His opinions on both of these topics will
be helpful to the jury and clearly fit the facts of this litigation. See UGI Sunbury LLC,
949 F.3d at 835. Dr. Williams' testimony confirms how his professional experience
informed his opinions. (See Williams 2023 Dep. at 34:3-8
34:19-22
35:1-6

CONCLUSION

For all the foregoing reasons, Teva respectfully requests that the Court deny Plaintiffs' Motion and Incorporated Memorandum of Law to Preclude Opinions of Defense Expert Roger Williams, M.D.

Dated: April 11, 2023 Respectfully Submitted:

By: /s/ Victoria Davis Lockard

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2023, a copy of the foregoing document was served on all counsel of record via CM/ECF.

By: /s/ Steven M. Harkins

Steven M. Harkins